IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

A.O. No. 799 of 2006
(Old No. 216 of 1988)

Bachan Singh Negi
Head Labourer Van Nigam Aausenk
P.O. Rausenk
The Ukhimath
District Chamoli ... Appellant

Vs

1. Smt. Basanti Devi W/o (Late) Sri Hukun Singh
   Village Maidanpur
   P.O. Maiki Mandi Tehsil Devprayag
   Tehri Garhwal
2. Prabhagiya Launging Prabandhak
   Van Nigam Laxmi Narain Road
   Tehri Garhwal ... Respondents

Sri Pankaj Purohit, learned counsel for the appellant

Hon'ble B.C. Kandpal, J.

Heard Sri Pankaj Purohit, learned counsel for the appellant on the point of admission and perused the impugned judgment and order dated 30.08.1988 passed by the Workmen Compensation Commissioner, Chamoli.

2. This appeal has been preferred by the appellant against the aforesaid judgment and order passed by the District Magistrate Workmen Compensation Commissioner, Chamoli whereby allowed the application of the respondent No. 1 – Basanti Devi and granting compensation of Rs. 20,000/- against the Van Nigam as well as appellant.

3. Brief facts of the case are that the husband of the respondent/claimant – Basanti Devi in the month September 1986 working under the supervision of Van Nigam. According to the claimant – Basanti Devi, Bachan Singh, Head Labourer took the deceased along with him as labourer and he has also

infirmed to the claimant that the work was going on under the supervision of Van Nigam. On 23.03.1987, at the time of the accident the deceased – Hukum Singh was working in slipper at Nigam's Depot. At the time of the accident, the deceased was aged about 24 years and was getting Rs. 25/- per day. Therefore, the claimant filed a claim petition before the court concerned.

4. The Workmen Compensation Commissioner after considering the entire evidence available on record and after having considered the arguments advanced by the parties the court below allowed the petition of the claimant and awarded Rs. 20000/- against the Van Vibhag as well as Bachan Singh.

5. Feeling aggrieved by the aforesaid judgment and order, the appellant - Bachan Singh preferred this appeal before the Allahabad High Court, which has been transferred to this Court after creation of separate State.

6. The arguments advanced by the learned counsel for the appellant that the liability has been fixed upon the appellant in an illegal manner, is devoid of any force.

7. It has been made clear by the Workmen Compensation Commissioner in the impugned judgment and order that in case, if Van Nigam can establish it that the status of the appellant – Bachan Singh is that of a contractor then Van Nigam will have a right to proceed against the contractor – Bachan Singh for the recovery of the amount of compensation awarded by the Commissioner.

8. This observation recorded by the Workmen Compensation Commissioner cannot be said to be illegal in any manner.

9. Having considered the arguments advanced by the learned counsel for the appellant and perusing the impugned judgment and order, I am of the view that the impugned judgment and order does not suffer with any infirmity.

10. In view of the above, the appeal lacks merit and is liable to be dismissed.

11. Accordingly, the appeal is dismissed. The stay order, if any, stands vacated.

12. However, it is made clear that in case, one Nigam proceeds further for initiating the recovery proceedings against the appellant, the appellant will have an opportunity to submit his case before the authority concerned.

(B.C. Kandpal, J.)

04.12.2006
ASWAL